

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
SHERMAN DIVISION**

DAVID E. MACK, §
§
Plaintiff, §
§
v. § **Cause No. 4:12-CV-00304-RC-ALM**
§
NCO FINANCIAL SYSTEMS, INC., §
§
Defendant. §

**DEFENDANT'S ANSWER AND AFFIRMATIVE DEFENSES TO
PLAINTIFF'S FIRST AMENDED COMPLAINT**

Defendant, NCO Financial Systems, Inc. (NCO), through counsel and pursuant to the Federal Rules of Civil Procedure, submits this Answer and Affirmative Defenses to the First Amended Complaint filed by Plaintiff, David Mack (Plaintiff), and states:

JURISDICTION

1. Upon information and belief, NCO admits the allegations in ¶ 1.
2. NCO denies the allegations in ¶ 2.

PARTIES

3. Upon information and belief, NCO admits the allegations in ¶ 3.
4. NCO admits it has an office located at 507 Prudential Road, Horsham, PA 19044. NCO denies the remaining allegations in ¶ 4. Specifically, NCO denies it is an “unknown entity” to Plaintiff.

VENUE

5. NCO denies the allegations in ¶ 5 for lack of knowledge or information sufficient to form a belief therein.
6. Upon information and belief, NCO admits the allegations in ¶ 6.

GENERAL ALLEGATIONS

7. NCO denies the allegations in ¶ 7 for lack of knowledge or information sufficient to form a belief therein.
8. NCO denies the allegations in ¶ 8.
9. NCO denies the allegations in ¶ 9.

COUNT I

VIOLATION OF THE FAIR CREDIT REPORTING ACT (FCRA), 15 U.S.C. § 1681- WILLFUL NON-COMPLIANCE BY DEFENDANT
NCO FINANCIAL SYSTEMS, INC.

10. NCO reasserts the foregoing as if fully set forth herein.
11. NCO denies the allegations in ¶ 11 as calling for a legal conclusion.
12. NCO denies the allegations in ¶ 12 as calling for a legal conclusion.
13. NCO denies the allegations in ¶ 13 as calling for a legal conclusion.
14. The FCRA speaks for itself and is the best evidence of its contents. To the extent the allegations in ¶ 14 are inconsistent with the FCRA, they are denied.
15. NCO denies the allegations in ¶ 15 as calling for a legal conclusion.
16. NCO denies the allegations in ¶ 16.
17. NCO denies the allegations in ¶ 17.

18. NCO admits Plaintiff mailed a pre-suit demand to NCO and had discussions with counsel for NCO. Except as specifically admitted, NCO denies the allegations in ¶ 18.

19. NCO denies the allegations in ¶ 19.

20. NCO denies the allegations in ¶ 20.

21. NCO denies the allegations in ¶ 21.

COUNT II

**VIOLATION OF THE FAIR CREDIT REPORTING ACT (FCRA), 15 U.S.C. § 1681- WILLFUL NON-COMPLIANCE BY DEFENDANT
NCO FINANCIAL SYSTEMS**

22. NCO reasserts the foregoing as if fully set forth herein.

23. NCO denies the allegations in ¶ 23 as calling for a legal conclusion.

24. NCO denies the allegations in ¶ 24 as calling for a legal conclusion.

25. NCO denies the allegations in ¶ 25 as calling for a legal conclusion.

26. The FCRA speaks for itself and is the best evidence of its contents. To the extent the allegations in ¶ 26 are inconsistent with the FCRA, they are denied.

27. NCO denies the allegations in ¶ 27.

28. NCO denies the allegations in ¶ 28.

AFFIRMATIVE DEFENSES

1. One or more of the counts/grounds contained in the Complaint fail to state a claim against NCO upon which relief can be granted.

2. NCO denies any liability; however, regardless of liability, Plaintiff has suffered no actual damages as a result of NCO's purported violations.

3. All claims asserted by Plaintiff are barred by the statute of limitations.
4. One or more claims asserted by Plaintiff are barred by laches, estoppel, waiver and/or unclean hands.
5. Any harm suffered by Plaintiff was legally and proximately caused by persons or entities other than NCO that were beyond the control or supervision of NCO or for whom NCO was and is not responsible or liable.
6. Assuming Plaintiff suffered any damages, he has failed to mitigate his damages or take other reasonable steps to avoid or reduce his damages.

WHEREFORE, Defendant, NCO Financial Systems, Inc., requests the Court dismiss this action with prejudice and grant it any other relief that the Court deems appropriate.

Respectfully Submitted,

/s/ Whitney L. White
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Attorney for Defendant,
NCO Financial Systems, Inc.

CERTIFICATE OF SERVICE

I hereby certify that on this 4th day of October, 2012, a copy of the foregoing **Defendant, NCO Financial Systems, Inc.'s, Answer and Affirmative Defenses to Plaintiff's First Amended Complaint** was electronically filed with the Clerk of the Court, United States District Court for the Eastern District of Texas, and served upon the following:

Via CM/RRA

David Mack
7720 McCallum Blvd #2099
Dallas, Texas 75252
Telephone: 972-735-9642

/s/ Whitney L. White
Whitney L. White